



# GENERAL ASSEMBLY

## COMMONWEALTH OF KENTUCKY

### 2006 REGULAR SESSION

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HOUSE BILL NO. 520

AS ENACTED

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FRIDAY, MARCH 24, 2006

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TREY GRAYSON  
SECRETARY OF STATE  
COMMONWEALTH OF KENTUCKY  
BY R. Adler

AN ACT relating to the local occupational tax.

***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

1       Section 1. KRS 67.750 is amended to read as follows:

2       As used in KRS 67.750 to 67.790, unless the context requires otherwise:

3       (1) "Business entity" means each separate corporation, limited liability company,  
4       business development corporation, partnership, limited partnership, registered  
5       limited liability partnership, sole proprietorship, association, joint stock company,  
6       receivership, trust, professional service organization, or other legal entity through  
7       which business is conducted;

8       (2) "Compensation" means wages, salaries, commissions, or any other form of  
9       remuneration paid or payable by an employer for services performed by an  
10      employee, which are required to be reported for federal income tax purposes and  
11      adjusted as follows:

12      (a) Include any amounts contributed by an employee to any retirement, profit  
13      sharing, or deferred compensation plan, which are deferred for federal income  
14      tax purposes under a salary reduction agreement or similar arrangement,  
15      including but not limited to salary reduction arrangements under Section  
16      401(a), 401(k), 402(e), 403(a), 403(b), 408, 414(h), or 457 of the Internal  
17      Revenue Code; and

18      (b) Include any amounts contributed by an employee to any welfare benefit, fringe  
19      benefit, or other benefit plan made by salary reduction or other payment  
20      method which permits employees to elect to reduce federal taxable  
21      compensation under the Internal Revenue Code, including but not limited to  
22      Sections 125 and 132 of the Internal Revenue Code;

23      (3) "Fiscal year" means fiscal year as defined in Section 7701(a)(24) of the Internal  
24      Revenue Code;

25      (4) "Employee" means any person who renders services to another person or business

1 entity for compensation, including an officer of a corporation and any officer,  
 2 employee, or elected official of the United States, a state, or any political  
 3 subdivision of a state, or any agency or instrumentality of any one (1) or more of the  
 4 above. A person classified as an independent contractor under the Internal Revenue  
 5 Code shall not be considered an employee;

6 (5) "Employer" means employer as defined in Section 3401(d) of the Internal Revenue  
 7 Code;

8 (6) "Gross receipts" means all revenues or proceeds derived from the sale, lease, or  
 9 rental of goods, services, or property by a business entity reduced by the following:

10 (a) Sales and excise taxes paid; and

11 (b) Returns and allowances;

12 (7) "Internal Revenue Code" means the Internal Revenue Code in effect on December  
 13 31, 2004, exclusive of any amendments made subsequent to that date, other than  
 14 amendments that extend provisions in effect on December 31, 2005[2004], that  
 15 would otherwise terminate;

16 (8) "Net profit" means gross income as defined in Section 61 of the Internal Revenue  
 17 Code minus all the deductions from gross income allowed by Chapter 1 of the  
 18 Internal Revenue Code, and adjusted as follows:

19 (a) Include any amount claimed as a deduction for state tax or local tax which is  
 20 computed, in whole or in part, by reference to gross or net income and which  
 21 is paid or accrued to any state of the United States, local taxing authority in a  
 22 state, the District of Columbia, the Commonwealth of Puerto Rico, any  
 23 territory or possession of the United States, or any foreign country or political  
 24 subdivision thereof;

25 (b) Include any amount claimed as a deduction that directly or indirectly is  
 26 allocable to income which is either exempt from taxation or otherwise not  
 27 taxed;

- 1 (c) Include any amount claimed as a net operating loss carryback or carryforward  
2 allowed under Section 172 of the Internal Revenue Code;
- 3 (d) Include any amount of income and expenses passed through separately as  
4 required by the Internal Revenue Code to an owner of a business entity that is  
5 a pass-through entity for federal tax purposes; and
- 6 (e) Exclude any amount of income that is exempt from state taxation by the  
7 Kentucky Constitution, or the Constitution and statutory laws of the United  
8 States;
- 9 (9) "Sales revenue" means receipts from the sale, lease, or rental of goods, services, or  
10 property;
- 11 (10) "Tax district" means a city of the first to fifth class, county, urban-county, charter  
12 county, consolidated local government, school district, special taxing district, or any  
13 other statutorily created entity with the authority to levy net profits, gross receipts,  
14 or occupational license taxes;
- 15 (11) "Taxable gross receipts" in case of a business entity having payroll or sales revenues  
16 both within and without a tax district means gross receipts as defined in subsection  
17 (6) of this section, as apportioned under KRS 67.753;
- 18 (12) "Taxable gross receipts" in case of a business entity having payroll or sales revenue  
19 only in one (1) tax district means gross receipts as defined in subsection (6) of this  
20 section;
- 21 (13) "Taxable net profit" in case of a business entity having payroll or sales revenue only  
22 in one (1) tax district means net profit as defined in subsection (8) of this section;
- 23 (14) "Taxable net profit" in case of a business entity having payroll or sales revenue both  
24 within and without a tax district means net profit as defined in subsection (8) of this  
25 section, as apportioned under KRS 67.753; and
- 26 (15) "Taxable year" means the calendar year or fiscal year ending during the calendar  
27 year, upon the basis of which net income or gross receipts is computed.

1 Section 2. KRS 68.197 is amended to read as follows:

- 2 (1) The fiscal court of each county having a population of thirty thousand (30,000) or  
3 more may by ordinance impose license fees on franchises, provide for licensing any  
4 business, trade, occupation, or profession, and the using, holding, or exhibiting of  
5 any animal, article, or other thing.
- 6 (2) License fees on business, trade, occupation, or profession for revenue purposes,  
7 except those of the common schools, may be imposed at a percentage rate not to  
8 exceed one percent (1%) of:
- 9 (a) Salaries, wages, commissions, and other compensation earned by persons  
10 within the county for work done and services performed or rendered in the  
11 county;
- 12 (b) The net profits of self-employed individuals, partnerships, professional  
13 associations, or joint ventures resulting from trades, professions, occupations,  
14 businesses, or activities conducted in the county; and
- 15 (c) The net profits of corporations resulting from trades, professions, occupations,  
16 businesses, or activities conducted in the county.
- 17 (3) In order to reduce administrative costs and minimize paperwork for employers,  
18 employees, and businesses, the fiscal court may provide:
- 19 (a) For an annual fixed amount license fee which a person may elect to pay in lieu  
20 of reporting and paying the percentage rate as provided in this subsection on  
21 salaries, wages, commissions, and other compensation earned within the  
22 county for work done and services performed or rendered in the county; and
- 23 (b) For an annual fixed amount license fee which an individual, partnership,  
24 professional association, joint venture, or corporation may elect to pay in lieu  
25 of reporting and paying the percentage rate as provided in this subsection on  
26 net profits of businesses, trades, professions, or occupations from activities  
27 conducted in the county.

1 (4) (a) Licenses imposed for regulatory purposes are not subject to limitations as to  
2 form and amount.

3 (b) No public service company that pays an ad valorem tax is required to pay a  
4 license tax.

5 (c) 1. It is the intent of the General Assembly to continue the exemption from  
6 local license fees and occupational taxes that existed on January 1, 2006,  
7 for providers of multichannel video programming services or  
8 communications services as defined in KRS 136.602 that were taxed  
9 under KRS 136.120 prior to the effective date of this section.

10 2. To further this intent, no company providing multichannel video  
11 programming services or communications services as defined in KRS  
12 136.602 shall be required to pay a license tax. If only a portion of an  
13 entity's business is providing multichannel video programming services  
14 including products or services that are related to and provided in support  
15 of the multichannel video programming services or communications  
16 services, this exclusion applies only to that portion of the business that  
17 provides multichannel video programming services or communications  
18 services, including products or services that are related to and provided  
19 in support of the multichannel video programming services or  
20 communications services.

21 (d) No license tax shall be imposed upon or collected from any insurance  
22 company except as provided in KRS 91A.080, bank, trust company, combined  
23 bank and trust company, combined trust, banking, and title business in this  
24 state, or any savings and loan association whether state or federally chartered,  
25 or in other cases where the county is prohibited by law from imposing a  
26 license fee.

27 (5) No license fee shall be imposed or collected on income received by members of the

1 Kentucky National Guard for active duty training, unit training assemblies, and  
 2 annual field training, or on income received by precinct workers for election  
 3 training or work at election booths in state, county, and local primary, regular, or  
 4 special elections, or upon any profits, earnings, or distributions of an investment  
 5 fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any  
 6 profits, earnings, or distributions would not be taxable to an individual investor.

7 (6) Persons who pay a county license fee pursuant to this section and who also pay a  
 8 license fee to a city contained in the county may, upon agreement between the  
 9 county and the city, credit their city license fee against their county license fee. As  
 10 used in this subsection, "city contained in the county" shall include a city that is  
 11 in more than one county.

12 (7) The provisions of subsection (6) of this section notwithstanding, effective with  
 13 license fees imposed under the provisions of subsection (1) of this section on or  
 14 after July 15, 1986, persons who pay a county license fee and a license fee to a city  
 15 contained in the county shall be allowed to credit their city license fee against their  
 16 county license fee. As used in this subsection, "city contained in the county" shall  
 17 include a city that is in more than one county.

18 (8) On July 14, 2000, the provisions of subsection (7) of this section notwithstanding,  
 19 city license fees not credited against county license fees enacted under this section  
 20 or KRS 67.083 as of January 1, 2000, shall not be credited against county license  
 21 fees. However, this exception shall not apply to county license fees enacted for the  
 22 first time, or increased, on or after January 1, 2000. This provision shall expire July  
 23 15, 2002, unless otherwise extended by the General Assembly.

24 (9) A county that enacted an occupational license fee under the authority of KRS  
 25 67.083 shall not be required to reduce its occupational tax rate when it is  
 26 determined that the population of the county exceeds thirty thousand (30,000).

27 (10) Notwithstanding any statute to the contrary:

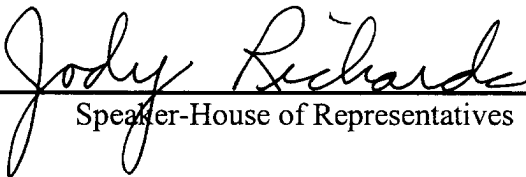
- 1 (a) In those counties where a license fee has been authorized by a public question  
2 approved by the voters, there shall be no credit of a city license fee against a  
3 county license fee except by agreement between the county and the city in  
4 accordance with subsection (6) of this section;
- 5 (b) Notwithstanding any provision of the KRS to the contrary, no taxpayer shall  
6 be refunded or credited for any overpayment of a license tax paid to any  
7 county to the extent the overpayment is attributable to or derives from this  
8 section as it existed at any time subsequent to July 15, 1986, and the taxpayer  
9 seeks a credit for a license tax paid to a city located within such county, if  
10 such refund claim or amended tax return claim was filed or perfected after  
11 November 18, 2004, except by agreement between the city and county in  
12 accordance with subsection (6) of this section;
- 13 (c) In those counties where a license fee has been authorized by a public question  
14 approved by the voters, the percentage rate of the license fee in effect on  
15 January 1, 2005, and any maximum salary limit upon which the license fee is  
16 calculated shall remained unchanged for subsequent fiscal years. A percentage  
17 rate higher than the percentage rate in effect on January 1, 2005, or any change  
18 in the maximum salary limit upon which a license fee is calculated shall be  
19 prohibited unless approved by the voters at a public referendum. The  
20 percentage rate of a license fee in such counties shall at no time exceed one  
21 percent (1%). Any question to be placed before the voters as a result of this  
22 paragraph shall be placed on the ballot at a regular election or nominating  
23 primary.
- 24 (d) This subsection shall have retroactive application; and
- 25 (e) If any provision of this subsection or the application thereof to any person or  
26 circumstance is held invalid, the invalidity shall not affect other provisions or  
27 application of this section that can be given effect without the invalid

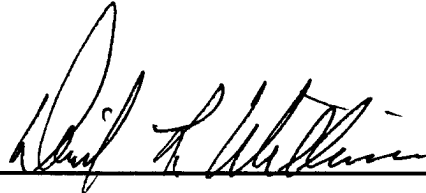



1           provision or application, and to this end the provisions of this subsection are  
2           severable.

3   (11) Pursuant to this section, no fiscal court shall regulate any aspect of the manner in  
4       which any duly ordained, commissioned, or denominationally licensed minister of  
5       religion may perform his or her duties and activities as a minister of religion. Duly  
6       ordained, commissioned, or denominationally licensed ministers of religion shall be  
7       subject to the same license fees imposed on others in the county on salaries, wages,  
8       commissions, and other compensation earned for work done and services performed  
9       or rendered.


10    Section 3.   The amendments contained in Section 2 of this Act shall apply  
11    retroactively to August 1, 2005.

  
\_\_\_\_\_  
Speaker-House of Representatives

  
\_\_\_\_\_  
President of the Senate

Attest:   
\_\_\_\_\_  
Chief Clerk of House of Representatives

Approved   
\_\_\_\_\_  
Governor

Date   
\_\_\_\_\_